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10 REYES CONTRERAS MURCIA,

11 individually and as class representative

12 **UNITED STATES DISTRICT COURT**

13 **CENTRAL DISTRICT OF CALIFORNIA**

14 REYES CONTRERAS MURCIA,
15 individually and as class
16 representative,

17 Plaintiff,

18 v.

19 CITY OF SANTA MONICA,
20 municipal entity; CHIEF RAMON
21 BATISTA, individually and in his
22 official capacity; CITY MANAGER
23 DAVID WHITE; individually and in
24 his official capacity; E.V.S., INC. dba
25 ALL CITY TOW SERVICE; and DOES
26 1-10, inclusive

27 Defendants.

) **CASE NO.:**

) **CLASS ACTION CIVIL**
) **RIGHTS COMPLAINT FOR**
) **INJUNCTIVE RELIEF AND**
) **DAMAGES**

-) **1. Injunctive Relief (42 U.S.C. §**
) **1983 / Art. I § 13 Cal. Const.);**
) **2. Damages (Fourth**
) **Amendment / 42 U.S.C. §**
) **1983);**
) **3. Damages Unlawful Takings**
) **(42 U.S.C. § 1983 / Fifth**
) **Amendment)**

) **DEMAND FOR JURY TRIAL**

INTRODUCTION

1
2 1. This is a civil rights class action lawsuit seeking injunctive and
3 monetary relief against the CITY OF SANTA MONICA (hereinafter sometimes
4 “SANTA MONICA” or “CITY”) CHIEF RAMON BATISTA (hereinafter
5 “CHIEF BATISTA”), individually and in his official capacity; CITY MANAGER
6 DAVID WHITE (hereinafter “MANAGER WHITE”); individually and in his
7 official capacity; E.V.S., INC. dba ALL CITY TOW SERVICE (hereinafter “ALL
8 CITY TOW”); and DOES 1-10, inclusive for engaging in violations of the Fourth
9 Amendment and Fifth Amendment by depriving unlicensed drivers of their
10 vehicles and arbitrarily imposing an unjustified “30 Day Impound Fee” in an
11 addition to other burdensome fees.

12 2. In committing such civil rights violations, CITY OF SANTA
13 MONICA and its conspirator defendants, are targeting, whether directly or
14 indirectly, Black and Brown people as well as people of low means who face
15 debilitating consequences based upon CITY OF SANTA MONICA’s capricious
16 policies and arbitrary actions against such individuals.

17 3. Plaintiff’s claims, and the class he represents, are brought pursuant
18 to the Fourth, Fifth and Fourteenth Amendments to the United States
19 Constitution; the Civil Rights Act of 1871 and its implementing regulations, 42
20 U.S.C. 1982, 1983, 1986 and 1988.

21 4. By this Complaint, Plaintiff seeks judicial redress for violations of
22 his civil rights due to unreasonable seizures under the Fourth Amendment of
23 the United States Constitution as well as seeking redress for many other
24 similarly situated.

25 5. Accordingly, judicial intervention is imperative in this matter to
26 end Defendants’ illegal practices which have, and continue to, impact the lives
27 of many.

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JURISDICTION

6. Plaintiff's claims arise under 42 U.S.C. § 1983. This court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343 and 2201.

7. A substantial part of the events giving rise to the claims alleged in this Complaint arose in the City of Santa Monica, California. Venue therefore lies in the United States District Court for the Central District of California, pursuant to 28 U.S.C. § 84(c), 28 U.S.C. § 1391(b)(2).

PARTIES

8. Plaintiff REYES CONTRERAS MURCIA (hereinafter sometimes "REYES CONTRERAS MURCIA") is, and at all relevant times herein mentioned was, a resident of the County of Los Angeles.

9. Defendant CITY OF SANTA MONICA is a municipal entity with the capacity to sue and be sued. It is a Charter City under the laws of the State of California. The pertinent departments of the CITY include the Santa Monica Police Department, the City of Santa Monica Department of Transportation, and the City Manager's Office, along with other departments which have involvement in this matter. Employees of the CITY have engaged in the acts complained of herein pursuant to the policies, practices, and customs of the CITY.

10. Defendant CHIEF RAMON BATISTA is the chief of the Santa Monica Police Department, and he is sued in his individual and official capacity.

11. Defendant CITY MANAGER DAVID WHITE is the city manager of the City of Santa Monica, and he is sued in his individual and official capacity.

12. Defendant E.V.S., INC. is a California Corporation doing business as ALL CITY TOW SERVICE in the City of Santa Monica. Defendant ALL CITY TWO's principal place of business is in Culver City, California.

13. Plaintiff is ignorant of the true names and capacities of defendants sued herein as DOES, and therefore sues these defendants by fictitious names.



1 Plaintiff will give notice of their true names and capacities when ascertained.
 2 Plaintiff is informed and believes and thereon alleges that defendant DOES are
 3 responsible in some manner for the damages and injuries hereinafter
 4 complained of.

5 14. Plaintiff is informed and believes and thereupon alleges that at all
 6 times relevant herein defendants, including DOE defendants, and each of them,
 7 were the agents, servants, couriers and employees of other defendants, and
 8 were acting in concert with each other and in furtherance of a common goal
 9 and/or objective, were acting within the course and scope of the agency and
 10 employment or ostensible agency and employment.

11 15. The complained of acts and omissions were performed by persons
 12 within the course and scope of employment with their employers, CITY. All acts
 13 and omissions were under color of state law.

14 **FACTUAL STATEMENT**

15 **City's Unconstitutional Policy – Vehicle Seizure Policy (“VSP”)**

16 16. Plaintiffs informed and believes and based thereon alleges that
 17 Defendants CITY, CHIEF BATISTA, MANAGER WHITE and/or DOES 1-10
 18 have promulgated, promoted and/or sanctioned, a policy, practice or custom,
 19 hereinafter called “Vehicle Seizure Policy,” or “VSP.” Under the VSP, a CITY
 20 official directs or causes the vehicle of an unlicensed driver to be seized without
 21 a warrant in order to coerce the vehicle’s registered owner to pay a “30 Day
 22 Impound Fee” despite the registered vehicle owner being capable to produce or
 23 direct a licensed driver to operate the vehicle. The VSP directs CITY officials to
 24 effect the seizure by instructing Defendant ALL CITY TOW, working under a
 25 CITY contract, to impound a vehicle

26 17. Pursuant to the VSP, Defendants bar the vehicle’s registered owner
 27 from reclaiming possession of his vehicle unless and until the owner pays a “30
 28 Day Impound Fee” even if the vehicle is not in the tow yard for 30 actual days.



19. Pursuant to the VSP, the CITY does not seek judicial review of any type to justify either the initial seizure, or the ongoing seizure. Pursuant to the VSP, a vehicle is subject to seizure even though it is safely parked in a lawful location, possess no danger and does not constitute a traffic hazard.

20. If under the VSP, the CITY elects to seize the vehicle by having it towed and impounded to Defendant ALL CITY TOW's tow yard, during the period of vehicle storage the Defendants charging daily storage charges (in addition to the towing and other fees) which, per the VSP, must be paid in full before the vehicle will be released. Otherwise, if not paid, the Defendant ALL CITY TOW will sell the vehicle at a lien sale to satisfy the unpaid towing, storage charges and other related charges fees. *See* Cal. Veh. Code §22851(a) (Lien created in favor of the tow company for towing and storage charges.). If the amount recovered by the lien sale is insufficient to pay outstanding charges and fees, the vehicle's (former) registered owner remains liable to the tow yard for the difference.

The Seizure of Plaintiff's Vehicle

27 22. Plaintiff REYES MURCIA's CHEVY TAHOE was impounded after
28 two SANTA MONICA police officers stopped him in a parking lot in Santa



1 Monica for having a broken rear taillight.

2 23. During the stop, Plaintiff REYES MURCIA was asked for his
3 California driver's license but was only able to produce an expired Mexican
4 driver's license. The CHEVY TAHOE was not a traffic hazard nor was it a
5 danger to the community.

6 24. Even though Plaintiff REYES MURCIA's vehicle was safely stopped
7 in a parking lot, the officers informed him that his vehicle would be impounded
8 because he did not have a California driver's license. Plaintiff REYES MURCIA
9 asked the officers if he could call his brother who has a valid California license
10 so that his brother could retrieve the vehicle, but CITY OF SANTA MONICA
11 police officers did not permit Plaintiff REYES MURCIA's brother to retrieve the
12 vehicle.

13 25. Subsequently, without a warrant, CITY OF SANTA MONICA
14 police officers, acting pursuant to the VSP, directed that Defendant ALL CITY
15 TOW, tow and impound the vehicle, citing Cal. Veh. Code § 22651(p).

16 26. In compliance with its contract with the CITY, Defendant ALL CITY
17 TOW took possession of Plaintiff's vehicle, towing and storing it in its storage
18 lot as a vehicle impound subject to a CITY hold.

19 27. Subsequently, on July 25, 2022, Plaintiff REYES MURCIA, through
20 his attorneys, contacted Defendant ALL CITY TOW who stated the vehicle was
21 being held pursuant to California Vehicle Code Section 22651(p) because the
22 driver was unlicensed, and that the vehicle could not be released until SANTA
23 MONICA authorized release.

24 28. Furthermore, Plaintiff REYES MURCIA, through his attorneys, also
25 contacted CITY OF SANTA MONICA police officer Lieb who informed him that
26 the fee to release the vehicle is \$159.90 and that, in addition, SANTA MONICA
27 charges a "30 day Impound Fee" of \$1,128.00.

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1 29. Thereafter, Plaintiff REYES MURCIA, through his attorneys,
2 informed a CITY OF SANTA MONICA city attorney that the vehicle was in a
3 parking lot when it was impounded, and that Plaintiff was not given an
4 opportunity to have a licensed driver retrieve the vehicle. However, CITY OF
5 SANTA MONICA simply replied that they would look into it. Plaintiff
6 responded that every day the car was in the impound lot, the fees increase.
7 Plaintiff REYES MURCIA requested a waiver of the \$1,128.00 Impound Fee so
8 the vehicle could be immediately released but such request was denied by CITY
9 OF SANTA MONICA.

10 30. Subsequently, on Tuesday, July 26, 2022, Plaintiff requested a “tow
11 hearing.” During the hearing, the CITY OF SANTA MONICA police officer Lieb
12 informed Plaintiff that the hearing was limited to a discussion of whether the
13 SANTA MONICA Police Department followed all the rules and regulations
14 concerning the vehicle impounds for unlicensed drivers. CITY OF SANTA
15 MONICA police officer Lieb stated that the only way the vehicle could be
16 released was for Plaintiff REYES MURCIA to get a California driver’s license.
17 Officer Lieb said he could not release the vehicle to a third party even if the third
18 party became the new registered owner of the vehicle. Officer Lieb stated that a
19 vehicle cannot be registered to a new owner when the vehicle is impounded.

20 31. After the tow hearing, Plaintiff REYES MURCIA, through his
21 attorneys, contacted again CITY OF SANTA MONICA city attorney and again
22 provided the relevant case law while also explaining that because Plaintiff
23 REYES MURCIA had a licensed driver available to pick up the vehicle when his
24 car was stopped in a parking lot, the vehicle should not have been impounded.

25 32. Finally, on July 28, 2022, Plaintiff REYES MURCIA made a final
26 request for the waiver of the “30 Day Impound Fee” but CITY OF SANTA
27 MONICA denied the request.

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1 33. The CITY officials' refusal to release Plaintiff's vehicle is causing
2 Plaintiff ongoing great and irreparable harm because:

- 3 a. Plaintiff's CHEVY TAHOE is his only vehicle and uses the vehicle
4 for his work as a street vendor. Plaintiff needs the CHEVY TAHOE
5 order to transport good and equipment;
6 b. Plaintiff is continuing to incur fees and costs the longer the vehicle
7 is in the tow yard; and
8 c. Plaintiff is informed and believes and thereon alleges that pursuant
9 to Cal. Veh. Code §22851(a), Defendant ALL CITY TOW will sell the
10 vehicle at a lien sale in order to collect funds due it for the towing
11 and storage. Obviously, this will cause Plaintiff to lose ownership
12 of his vehicle and suffer an immense loss in connection with his line
13 of work.

14 **CLASS ACTION ALLEGATIONS**

15 34. Plaintiff brings this action on his own behalf, and on behalf of the
16 class of all persons similarly situated, pursuant to Federal Rules of Civil
17 Procedure Rule 23,

18 35. There is an "Injunctive Relief Class" as defined under Rule 23(b)(2)
19 to include all registered owners whose vehicles are presently seized pursuant to
20 the CITY's Vehicle Seizure Policy, or who may in the future have their vehicles
21 so seized/impounded. This class seeks an injunction commanding defendant
22 CITY, CHIEF BATISTA, MANAGER WHITE, ALL CITY TOW, and each of
23 them, to immediately release vehicles not held pursuant to a warrant, to either
24 the vehicle's registered owner or to a licensed driver designed by the registered
25 owner who can drive the vehicle lawfully. Plaintiff is the proposed Class
26 Representative for the Injunctive Relief Class.

27 36. There is a "Damages Class" as defined by Rule 23(b)(3), consisting
28 of those vehicle owners whose vehicles were seized at any time within the last

1 two years of this Complaint's filing and continuing up through the present,
 2 where such seizures were pursuant and impounded for 30 days pursuant to the
 3 City's Vehicle Seizure Policy. Plaintiff is the proposed Class Representative for
 4 the Damages Class.

5 37. On information and belief, the Injunctive Relief Class numbers and
 6 Damages class numbers are at least in the hundreds. The members of the classes
 7 are so numerous that joinder is impracticable.

8 38. The classes are ascertainable because the CITY and ALL CITY TOW
 9 maintain paper and computer records tracking and identifying every vehicle
 10 seized under the VSP, including the registered owner (name and address),
 11 vehicle description, date and location where the vehicle was seized, where the
 12 vehicle is being held, the authority under which the vehicle is seized, the date
 13 the vehicle was released, whether it was sold at a lien sale and for how much,
 14 and the amounts paid for administrative fees, towing and storage charges, and
 15 who paid these charges.

16 39. Questions of law and fact common to each class include:

17 A. Whether the VSP is constitutional, under either the Fourth
 18 Amendment (unlawful seizure without a warrant), and the
 19 Fifth Amendment (Takings without compensation) and the
 20 Fourteenth Amendment.

21 B. Whether the VSP violates the Fourth Amendment by directing
 22 vehicle impounds without a warrant and in the absence of
 23 justification for the warrantless seizures.

24 40. Plaintiff's claims are typical of the claims of members of each class
 25 on whose behalf she acts as a class representative, in that as with each class
 26 member, Plaintiff's vehicle was seized without a warrant and pursuant to the
 27 VSP. As with each class member, Plaintiff is willing and able to safely and
 28 lawfully reclaim possession of his vehicle but for the VSP mandatory

1 requirement that Plaintiff first pay all sums allegedly due the City for a “30 Day
2 Impound Fee.”

3 41. Plaintiff will fairly and adequately protect the interests of each class
4 on whose behalf she is acting as a class representative. Plaintiff has no interest
5 which is now or may be potentially antagonistic to the interests of each class on
6 whose behalf they are acting as a class representative. As with all class members,
7 Plaintiff’s vehicle was seized without a warrant and impounded pursuant to the
8 VSP. As with all class members, Plaintiff seeks to reclaim possession of his
9 vehicle immediately.

10 42. In accordance with Fed.R.Civ.P. Rule 23(b)(1)(A), prosecutions of
11 separate actions by individual members of each class would create a risk that is
12 inconsistent or varying adjudications with respect to individual members of the
13 class would establish incompatible standards of conduct for the parties
14 opposing the class.

15 43. In accordance with Fed.R.Civ.P. Rule 23(b)(1)(B), prosecutions of
16 separate actions by individual members of the class would create a risk of
17 adjudications with respect to individual members of the class which would, as
18 a practical matter, substantially impair or impede the interests of the other
19 members of the class to protect their interests.

20 44. The Damages Class qualifies for certification pursuant to the
21 provisions of Fed.R.Civ.P. Rule 23(b)(3) in that 1) the questions of law or fact
22 common to the members of the class predominate over any questions affecting
23 only individual members, and 2) this class action is superior to other available
24 methods for the fair and efficient adjudication of the controversy between the
25 parties.

26 45. Plaintiff is informed and believes and thereon alleges that the
27 interests of members of each class in individually controlling the prosecution of
28 a separate action are low. Most class members would be unable to individually

1 prosecute any action at all. Plaintiff is informed and believes and thereon alleges
2 that the amounts at stake for individuals are so small that separate suits would
3 be impracticable. Plaintiff is informed and believes and thereon alleges that
4 most members of the class will not be able to find counsel to represent them.

5 46. Plaintiff is informed and believes and thereon alleges it is desirable
6 to concentrate all litigation in one forum because the VSP is a Santa Monica City-
7 wide policy presumptively enforced by CITY officials as against all vehicle
8 owners within the CITY's jurisdiction. It would consume undue and
9 unnecessary resources to litigate the identical issues in different forums.

10 47. Liability can be determined on a class-wide basis regarding what
11 provisions of the VSP are lawful. For instance, a determination of seizing a
12 vehicle without a warrant in order to coerce the vehicle owner's to pay a 30 Day
13 Impound Fee violates the Fourth and Fourteenth Amendments, that
14 determination disposes of all Fourth and Fourteenth Amendment claims of all
15 class members.

16 48. To the extent it is determined that notice is required for the Plaintiff
17 Class, then, class members will be identified by the records of CITY and ALL
18 CITY TOW.

19 APPROPRIATENESS OF EQUITABLE RELIEF

20 49. Plaintiff and Injunctive Relief Class members do not have an
21 adequate remedy at law for the injuries alleged herein. The continuing
22 enforcement of the VSP violates Plaintiff's and class members Fourth
23 Amendment rights guaranteeing that all seizures must be reasonable, and
24 causes continuing, sweeping and irreparable harm to Plaintiff and class
25 members by the ongoing deprivation of their vehicles, property that is essential
26 for Plaintiff and class members' livelihood and necessities of life, e.g., using the
27 vehicle for work or to transport goods.

28 ///

1 members are willing and able to lawfully reclaim possession, and seek
2 possession of their vehicles, but are denied possession on account of the VSP.

3 54. The seizures of vehicles pursuant to the VSP violates the Fourth
4 Amendment to the United States Constitution, and Art. I § 13 of the California
5 Constitution, regardless of whether the initial seizure and removal of the vehicle
6 was constitutionally valid or not.

7 55. The acts alleged herein were the product of a custom, practice
8 and/or policy of Defendant CITY, which custom, practice and/or policy caused
9 the constitutional violations alleged herein.

10 **SECOND CLAIM FOR RELIEF**

11 **(Damages Claim Against CITY, CHIEF BATISTA, MANAGER WHITE, and**
12 **DOES only)**

13 **(42 U.S.C. §1983 - Fourth Amendment)**

14 56. By this reference, Plaintiff, on behalf of himself and members of the
15 Injunctive Relief Class, re-alleges and incorporates all previous and following
16 paragraphs as if fully set forth herein.

17 57. The seizures of vehicles belonging to Plaintiff and members of the
18 Damages Class where such seizures were made without a warrant, did not meet
19 the requirements of the community caretaking doctrine, i.e., the vehicles do not
20 present a threat to public safety, violated the Fourth Amendment to the United
21 States Constitution, thereby entitling Plaintiff and class members to recover
22 compensatory damages from all Defendants CITY, CHIEF BATISTA,
23 MANAGER WHITE, and DOES, proximately caused by the seizures.

24 58. The acts alleged herein were the product of a policy or custom of
25 Defendant CITY, which policy or custom caused the constitutional violation
26 alleged herein.

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THIRD CLAIM FOR RELIEF

**(Damages Claim Against CITY, CHIEF BATISTA, MANAGER WHITE, and
DOES only)**

(42 U.S.C. §1983 - Fifth Amendment - Takings without Compensation)

59. By this reference, Plaintiff, on behalf of himself and members of the Injunctive Relief Class, re-alleges and incorporates all previous and following paragraphs as if fully set forth herein.

60. The seizures of vehicles belonging to Plaintiff and members of the Damages Class, constitute Takings within the meaning of the Fifth Amendment. Furthermore, Defendant CITY effect the Takings for a public purpose -- coercing vehicle owners to pay the CITY sums for a 30 Day Impound Fee. Seizing vehicles although Plaintiff can retrieve the vehicle with a licensed driver does not, in and of itself, justify the seizure. Thus, the seizures are Takings for which Defendants CITY, CHIEF BATISTA, MANAGER WHITE, and DOES, owe compensation to Plaintiff and members of the Damages class.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests entry of judgment in his favor and against Defendants as follows:

On The First Cause of Action:

61. That the Court certify this case pursuant to F. R. Civ. P. 23(b)(2) as a class action on behalf of a class of Plaintiff composed of the Injunctive Relief Class described above;

62. That the Court issue a declaration that the VSP, in the respects set forth herein, is unconstitutional on its face and of no force or effect. Specifically, that this Court declare that the VSP is facially unconstitutional to the extent that it directs vehicle seizures without warrants in the absence of consent, exigent circumstances, emergency or community caretaking;

///

1 63. That pending determination of Plaintiff's motion for a preliminary
2 injunction, the Court issue a temporary restraining order as against Defendant
3 E.V.S., INC. dba ALL CITY TOW SERVICE that

4 (a) bars E.V.S., INC. dba ALL CITY TOW SERVICE from selling Plaintiff's
5 vehicle at a lien sale and

6 (b) bars E.V.S., INC. dba ALL CITY TOW SERVICE from repossessing
7 Plaintiff's vehicle.

8 64. That the Court issue a preliminary and permanent injunction on
9 behalf of Plaintiff and class members commanding defendants, and each of
10 them, to release immediately to Plaintiff and class members their respective
11 vehicles, upon proof that Plaintiff and class members can lawfully take
12 possession;

13 65. That this Court award Plaintiff attorneys fees and costs incurred in
14 this action under 42 U.S.C. § 1988, Cal. Civ. Proc. Code § 1021.5, California's
15 private attorney general doctrine, and any other appropriate statute.

16 **On The Second and Third Causes of Action:**

17 66. That the Court certify this case pursuant to F. R. Civ. P. 23(b)(3) as
18 a class action on behalf of a class of Plaintiff composed of the Damages Class
19 described above;

20 67. That as against Defendants CITY, CHIEF BATISTA, MANAGER
21 WHITE, and DOES, this Court award Plaintiff and the class members
22 compensatory damages, according to proof;

23 68. That as against Defendants , CHIEF BATISTA, MANAGER WHITE,
24 and DOES, the Court award punitive damages in an amount sufficient to deter
25 and punish these Defendants;

26 69. That this Court award attorneys fees and costs incurred in this
27 action under 42 U.S.C. § 1988, and any other appropriate statute.

28 **On All Causes of Action:**



1 70. That the Court award costs of suit; and

2 71. That the Court grant such other and further relief as may be just and
3 proper.

4 Dated: July 28, 2022

**LAW OFFICES OF CHRISTIAN CONTRERAS
A PROFESSIONAL LAW CORPORATION**

6
7 By: 
8 Christian Contreras, Esq.
Attorney for Plaintiff

9 **DEMAND FOR JURY TRIAL**

10 Plaintiff hereby demands a trial by jury on his own behalf and on behalf
11 of the Damages class.

12 Dated: July 28, 2022

**LAW OFFICES OF CHRISTIAN CONTRERAS
A PROFESSIONAL LAW CORPORATION**

14
15 By: 
16 Christian Contreras, Esq.
Attorney for Plaintiff